Exhibit 49

Excerpts of deposition of David Alan Johnson (November 17, 2023)

In the Matter Of:

THE SATANIC TEMPLE

VS

NEWSWEEK DIGITAL

DAVID JOHNSON

November 17, 2023



Moburg Reporting

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November 17, 2023 THE SATANIC TEMPLE vs NEWSWEEK DIGITAL

David Johnson

1	UNITED STATES DISTRICT COURT
2	SOUTHERN DISTRICT OF NEW YORK
3	
4	THE SATANIC TEMPLE, INC.,
5	Plaintiff,
6	vs.)NO. 1:22-CV-01343-MKV
7	NEWSWEEK DIGITAL, LLC,)
8	Defendant.)
9	
10	Videotaped Deposition Upon Oral Examination
11	of
12	DAVID ALAN JOHNSON
13	
14	Friday, November 17, 2023
15	9:36 a.m.
16	7900 Southeast 28th Street
17	Mercer Island, Washington
18	
19	
20	
21	
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23	
24 25	Cheryl Macdonald, CRR, RMR Court Reporter License No. 2498

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THE SATANIC TEMPLE vs NEWSWEEK DIGITAL

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Page 10 after a complaint was made. It could be incidental.

- They could be removed for some other reason besides
- that. 3
- 4 Q. So if they were removed because of the
- 5 complaint, though, then that's not a cover-up, in your
- opinion; is that correct?
- 7 MS. TESORIERO: Objection to form.
- 8 A. I think it depends on the particulars of
- 9 the situation.
- 10 Okay. Have you personally witnessed any
- 11 sexual abuse within The Satanic Temple?
- 12 A. I have not.
- 13 Q. You gave an interview to Julia Duin at some
- 14 point previously; is that correct?
- 15 A. That is correct.
- 16 Q. During that interview you indicated --
- 17 well, let's back up. I believe during that interview
- 18 you indicated that you were a witness to a sexual
- 19 harassment complaint. Do you recall that?
- 20 A. That sounds correct, yes.
- 21 Q. And when I say "I believe," I'm not sure if
- 22 it was you or if it was someone else. So unpacking it
- 23 slightly, did you indicate to Julia Duin that you were
- 24 a witness to a sexual harassment complaint?
- 25 A. I believe that is correct, yes.
- Page 11
- Q. Okay. In your definition of sexual abuse,
- 2 whatever the sexual harassment complaint was, was that
- 3 sexual abuse?
- 4 A. I don't know that I feel qualified to say.
- Okay. Well, what was the sexual harassment
- 6 complaint?
- A. There was a former member of the local
- 8 TST group who had been, from my understanding,
- 9 repeatedly made to feel uncomfortable by a much older
- 10 member. I think -- I think this was in a period of
- 11 2017 to 2018. So it was before I was a member. They
- 12 left because it was nonaddressed for months, and then
- 13 I found out about it in 2020.
- 14 Q. Let's unpack that slightly. You indicated
- 15 that you were a listed witness on a complaint;
- 16 correct?
- MR. ROLLER: Object to the form. I think 17
- 18 it misstates prior testimony.
- 19 Q. Let me rephrase. You indicated to Duin
- 20 that you were a listed witness on a sexual harassment
- 21 complaint; correct?
- 22 A. I'm not -- I'm not sure. There was a
- 23 complaint by a person who was no longer a member. We
- 24 found out about it in 2020, and then that was brought
- 25 up. That's when I was made aware of it.

- Page 12 Q. You say when "that was brought up."
- 2 was brought up?
 - A. In 2020, when the former member, who was
- unhappy about the way their sexual harassment had been
- treated, talked publicly about it, as their
- unhappiness with their treatment in the organization.
- 7 Q. Was this a written complaint or an
- 8 unwritten complaint?
- 9 A. I believe it was a Facebook post.
- 10 So this was -- backing up slightly, are you
 - familiar with the concept of National Council or
- 12 **International Council?**
- 13 A. Within the context of The Satanic Temple?
- 14 Q. Correct.
- 15 My understanding is that the National
- 16 Council and International Council were a leadership
- 17 committee directly below Doug Misicko and Cevin
- 18 Soling, the executive committee.
 - Q. But the question posed is whether you're
- 20 familiar with them in the first place. So that's a
- 21 yes, correct?

19

- 22 A. If what I just said was accurate, then yes.
- 23 Q. Within your understanding, did
- 24 International Council or National Council investigate
- matters of claims of sexual harassment?
- - MS. TESORIERO: Objection to form. 1
 - MR. ROLLER: Object to form. 2
 - 3 A. Sorry. Could you restate the question? 4 Q. In your understanding, did national -- I'm
 - just going to call it the National Council. In your
 - understanding, did National Council investigate claims

 - 7 of sexual harassment?
 - 8 A. I am not sure. I have heard that that's
 - 9 so.
 - 10 Q. Okay. But you lack personal knowledge;
 - 11 correct?
 - 12 That's correct.
 - 13 Q. Okay. Do you have any personal knowledge
 - whether the person who claimed sexual harassment ever
 - raised a complaint to national council?
 - 16 A. I do not know that, no.
 - 17 Q. You indicated that you were a witness. I'm
 - 18 having trouble understanding how you are a witness in
 - 19 this complaint.
 - 20 MR. ROLLER: Object to the form.
 - 21 Q. Please help me understand that. You
 - 22 indicated to Duin, "We were a witness", correct?
 - 23 A. I'm not sure what the -- that's what we
 - 24 said. If that's what the transcript is, then that's
 - 25 what we said.



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Page 14 Q. Well, let's interject there and play the person. 2 clip. So for benefit of the record, we're pulling 2 Q. Okay. But I need to find this e-mail. So 3 Newsweek 390, which is a portion of an -- which prior 3 do you recall the e-mail address? 4 testimony has established that this is a portion of an 4 A. I do not. 5 interview between Duin and four prior members of The 5 Q. Do you recall whether they used a

7 A. I do not believe it was four. It was three 8 people were there.

Q. Oh, okay. So prior testimony suggested it

10 was you, Leah Fishbaugh, and --

11 A. Nathan Sullivan.

12 Q. Okay, yes. So who is the fourth member of

13 QueerSatanic?

6 Satanic Temple.

A. The fourth person that you're suing is 14

15 Micky Powell.

16 Q. And Micky was not at this interview; is

17 that correct?

18 A. That is correct.

19 Q. So returning again to the audio clip, this

20 is Newsweek 390. We have a four-minute clip from that

21 interview. Prior testimony established that this was

22 approximately an hour-and-a-half-long interview; is

23 that correct?

24 A. I am not sure. It's been a while. So I

25 don't recall.

1

12 best of your knowledge; correct? A. Correct.

Q. And to clarify, that is a pseudonym, to the

A. I believe they were going by Wylie,

Q. Do you recall Wylie's last name?

13

pseudonym?

W-Y-L-I-E.

14 Q. Do you recall whether this was a Gmail

15 address?

Α. It was probably a Gmail address.

17 Do you know where Wylie is?

Duffy, D-U-F-F-Y.

18 A. I do, yes.

Q. Where is Wylie?

20 A. They live in Seattle.

Q. Do you have Wylie's residential address?

22 I do not, no.

23 Q. Do you have Wylie's work address?

A. I do not.

25 Q. Do you have Wylie's telephone number?

(Tape played.)

2 Q. Pausing at 16 seconds, a male voice is

3 speaking here. Is that Nathan Sullivan?

4 A. That's Nathan Sullivan.

5 (Tape played.)

6 Pausing at 50. So thus far, Nathan tells

7 Duin that there was an ethics complaint. It was

8 e-mailed, and several of us were listed as witnesses.

Were you one of the "several of us"?

10 MS. TESORIERO: Objection to form.

A. I was CC'd on that e-mail, yes. 11

12 Q. So this terminology "listed as witnesses,"

13 is that just because you were CC'd on the e-mail?

A. I believe so, yes.

15 Q. And when did this e-mail take place?

16 A. By recollection, it was in March of 2020.

17 Who sent the e-mail?

18 A. Another former member who is not a party in

19 the suit.

14

20 Q. So not one of the four constituting QS.

21 Was it the former member who claimed sexual

22 harassment?

23 A. No.

24 Q. Who was it?

25 A. It was another former member who knew that 1 A. I might.

2 Q. Do you have Wylie's e-mail address?

3 A. I would have Wylie's e-mail address, yes.

4 Q. Do you have this e-mail?

5 You mean off the top of my head? Α.

Q. Yes.

7 A. No.

8 So off the top of your head you know that

you do not have his e-mail?

10 A. I can't recall to you what the e-mail

11 address is.

12 Q. No, no. I'm not asking whether you can

13 recall the e-mail address. I'm asking whether you

have that e-mail. If I were to, for example, issue a

15 subpoena duces tecum, could you produce the e-mail?

16 A. I haven't checked in a while. I might be

17 able to.

18 Q. Returning your attention to the earlier

19 testimony. You did not personally witness this

20 particular event; correct?

21 A. Can you specify what this particular event

22 is?

23 Q. This e-mail complaint raised by Wylie Duffy

24 about sexual harassment that continued on for some

period of time three years before you were a member.



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	Page 18	
1	A. I did not witness the sexual harassment	1 Q. So to be more particular, you personally
2	before I was a member, that's correct.	2 know that he was not a member of TST Washington in
3	Q. And have you seen any other sexual abuse of	3 2020; correct?
4	any sort within The Satanic Temple?	4 MR. ROLLER: Object to the form, but you
5	MS. TESORIERO: Objection to form.	5 can answer.
6	A. When you say that, do you mean have I	6 A. That's a somewhat complicated question
7	witnessed with my own eyes?	7 because membership was not kept up in a particularly
8	Q. Correct, yeah. You personally.	8 organized way. So, to my knowledge, he was not a
9	A. No, I don't believe so.	9 member anymore.
10	Q. Okay. So any knowledge you have would be	10 Q. But I'm trying to ascertain you say to
11	based on hearsay; is that correct?	11 your knowledge, meaning you affirmatively know that he
12	MR. ROLLER: Object to the form.	12 was not; is that correct?
13	A. Knowledge I have comes from other people	13 A. I do not know that he was not.
14	who experienced things, yes.	14 Q. Okay.
15	Q. And the information that you received from	15 A. Yeah.
16	other people who experienced things, did they give you	u 16 Q. And how do you know that or strike that.
17	this information under penalty of perjury?	17 What would constitute him being a member or
18	MS. TESORIERO: Objection to form.	18 not a member of TST Washington, in your opinion?
19	A. No.	19 A. In my mind?
20	Q. This complaint in 2020, did you raise any	20 Q. Mm-hmm.
21	criminal complaints on the matter?	21 A. There were lists of people who were
22	A. I did not.	22 members. However, those lists were not up to date.
23	Q. To your knowledge, were any criminal	23 So sometimes people who were supposedly expelled were
24	complaints ever raised?	24 not actually, like, officially expelled, if that makes
25	A. To my knowledge, no.	25 sense.
1	Page 19 Q. To your knowledge, were there ever any	Page 21 1 Q. Yeah, meaning their name was not struck
2	criminal charges on the matter?	2 from some list; correct?
3	A. To my knowledge, no.	3 A. No. There were lists of active members and
4	MR. KEZHAYA: I think we're at a good place	4 supposedly expelled members, but this was not kept up
5	to take a break.	5 to date in any sort of accurate way, in my experience

with the organization.

7 Q. Did TST Washington have in-person events? 8

A. They did, yes.

9 Q. If John Milton showed up at one of those

10 in-person events, would he have been removed?

I am not sure.

12 Q. Would he have been welcomed?

13 A. I am not sure.

Did you ever tell Duin that you personally

15 witnessed any form of sexual abuse? 16

A. Not to my knowledge, no.

17 Did you ever tell Duin that you personally

18 witnessed any form of cover-up? 19

A. Not to my recollection, no.

20 Q. Did Duin ever ask you for any clarifying 21 details as to the ethics complaint?

MS. TESORIERO: Objection to form.

23 A. Not to my recollection, but if you have the 24 interview, then that would -- that should say that.

25 Q. So, in other words, if it's not in the

THE VIDEOGRAPHER: We're now going off the

7 record. The time is now 9:56 a.m.

8 (Recess.)

9 THE VIDEOGRAPHER: We are now back on the

10 record. The time is now 10:02 a.m.

11 Q. Do you recall the name of the person about

12 whom this 2017 sexual harassment claim was raised?

13 A. I believe I know their pseudonym.

14 Q. What is their pseudonym?

15 A. Dice Marlow.

16 Q. How do I spell Dice?

A. D-I-C-E, and then Marlow, I believe, is 17

18 M-A-R-L-O-W.

19 Q. Do you recall the name or pseudonym of the

20 person who allegedly sexually harassed Dice Marlow?

A. To my recollection, the pseudonym was John 21

22 Milton.

23 Q. Do you know whether John Milton, as of

24 2020, was still a member of TST Washington?

25 A. To my knowledge he was not.



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David Johnson

THE SATANIC TEMPLE vs NEWSWEEK DIGITAL Page 22 Page 24 1 clip, there was no follow-up writings, you know, 1 MR. KEZHAYA: I'm going to interpose an 2 asking follow-up questions. Is that -objection here. We have a protective order that A. Not to my recollection. limits this deposition to sexual abuse and cover-up. Okay. Did Duin ever ask you for any I very intentionally did not ask any questions about 5 clarifying details as to cover-up? the guild structure. We can get into it, but this is A. Not to my recollection. outside the protective order that you-all asked for. 7 7 Q. Did Duin ever ask you any follow-up MS. TESORIERO: Let me clarify. 8 questions about issues raised by Jinx Strange? 8 Q. I am trying to get to the allegation of a 9 MS. TESORIERO: Objection to form. cover-up. If individuals were removed after being 10 A. Not to my recollection. copied on a sexual harassment complaint, I believe 11 Q. Do you recall the time difference between that goes to cover-up. I am only asking for you to 12 the interview and you providing Duin contact explain to me the connection between this complaint, 13 information for Jinx Strange? your knowledge of the complaint, and to the extent you 14 A. I do not know. believe it led to your removal from the group. 15 And I earlier asked you more generally --15 MR. ROLLER: If I can just say one thing 16 let's establish that foundation. Did you personally 16 before you answer. I have no objection to the line of provide Duin the contact information for Jinx Strange? inquiry here without waiver of raising the scope of 18 A. I honestly don't recall. 18 the protective order. 19 Q. Do you recall how Duin received the contact 19 MR. KEZHAYA: Okay. I'm just letting you 20 information for Jinx Strange? know now before we get into it further, I'm going to 21 MR. ROLLER: Objection to form. cross-examine him further about the nature of the 22 22 MS. TESORIERO: Objection. guild structure, what did he do for TST. This has a 23 A. I do not know. 23 very high likelihood of turning into a dispute that 24 MR. KEZHAYA: Okay. Pass the witness. 24 I'm trying to avoid here. 25 25 MS. TESORIERO: Thank you. MS. TESORIERO: I am only asking about a Page 23 Page 25 1 **EXAMINATION** specific incident that, based on the definition we 2 BY MS. TESORIERO: discussed, could constitute a cover-up. 3 Q. Good morning, Mr. Johnson. Thank you for 3 MR. KEZHAYA: Okay. 4 being here. As I said earlier, my name is Sara 4 A. I'm sorry. Could you restate the question?

5 Tesoriero. I'm an attorney for Newsweek, who is the

6 defendant in this case. I just have a couple

7 follow-up questions.

First, a point of clarification from the 8

earlier conversation. Did you say that John Milton

10 was the accused in the complaint we've been

11 discussing?

12 A. I believe that's correct, yes.

13 And Dice Marlow was the alleged victim? O.

14 Α. That's correct.

Q. Thank you. Turning to the discussion you

16 and the other QueerSatanic members and Duin had during

17 the interview. Based on the interview, it is my

18 understanding that your position is that you were

19 removed from TST leadership after being copied on the

20 e-mail complaint; is that correct?

21 A. I believe the dissolution of the so-called

22 guild structure happened after that, yes.

23 Q. Would you please describe the timeline and

24 connect for me the e-mail to the breakdown of the

auild structure?

I know it's difficult.

Q. One moment. What is your basis for

believing that you personally were removed from TST

guild leadership because you were copied on an e-mail

complaint about sexual harassment?

10 I do not understand that to be the cause Α.

11 and effect.

12 Q. Then I have no further questions on that

13 matter.

14 A. Okay.

15 Q. You mentioned briefly that the e-mail

complaint that Wylie Duffy brought to your attention

was not the only incident of -- actually, pause that

18 question one moment. Strike that.

19 I know you and Mr. Kezhaya discussed your understanding of sexual abuse. For the purpose of my

questions, I'm going to tell you that my definition of

sexual abuse for these questions is any and all forms

of unwanted sexual contact, whether physical or

24 verbal, which would include but not be limited to

sexual harassment. Do you understand that definition?



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David Johnson

1	Page 34 questions.	1	Page 36 outcome thereof;
2	THE VIDEOGRAPHER: We are now going off the	2	I further certify that the witness before
3	record. This marks the end of the deposition of David	3	examination was by me duly sworn to testify to the
4	Alan Johnson. The time is now 10:27 a.m.		truth, the whole truth, and nothing but the truth;
5	THE REPORTER: Signature?	5	I further certify that the deposition, as
6	MR. ROLLING: Yes. We want to read it.	6	transcribed, is a full, true and correct transcript of
7	MR. KEZHAYA: We'll need the transcript.	7	the testimony, including questions and answers, and
8	MS. TESORIERO: Copy, please.	8	all objections, motions, and exceptions of counsel
9	(Deposition concluded at 10:27 a.m.)	9	made and taken at the time of foregoing examination
10		10	and was prepared pursuant to Washington Administrative
11		11	Code 308-14-135, the transcript preparation format
12		12	guideline;
13		13	I further certify that I am sealing the
14		14	deposition in an envelope with the title of the above
15		15	cause and the name of the witness visible, and I am
16		16	delivering the same to the appropriate authority;
17		17	delivering the same to the appropriate authority,
18		18	IN WITNESS WHEREOF, I have hereunto set my hand,
19		19	and affixed my official seal this 30th day of
20		20	NOvember 2023.
21		21	NOVEMBER 2023.
22		22	Cheryl Macdonald, CCR
		23	Washington State Certified
23		23	
24		25	Court Reporter License No. 2498
25		25	LICENSE NO. 2490
	Page 35		
1	Page 35	1	D E C L A R A T I O N
2	CERTIFICATE	2	D E C L A R A T I O N
2	CERTIFICATE STATE OF WASHINGTON)	2	
2 3 4	CERTIFICATE STATE OF WASHINGTON)) ss.	2 3 4	DECLARATION
2 3 4 5	CERTIFICATE STATE OF WASHINGTON)	2 3 4 5	DECLARATION I declare under penalty of perjury that I
2 3 4 5 6	CERTIFICATE STATE OF WASHINGTON)) ss. COUNTY OF KING)	2 3 4 5 6	DECLARATION I declare under penalty of perjury that I have read my within deposition, and the same is true
2 3 4 5 6 7	CERTIFICATE STATE OF WASHINGTON)	2 3 4 5 6 7	DECLARATION I declare under penalty of perjury that I have read my within deposition, and the same is true and accurate, save and except for changes and/or
2 3 4 5 6	CERTIFICATE STATE OF WASHINGTON)	2 3 4 5 6	I declare under penalty of perjury that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the
2 3 4 5 6 7 8 9	CERTIFICATE STATE OF WASHINGTON)) ss. COUNTY OF KING) I, the undersigned Washington Certified Court Reporter, pursuant to RCW 5.28.010, authorized to administer oaths and affirmations in and for the State	2 3 4 5 6 7 8 9	DECLARATION I declare under penalty of perjury that I have read my within deposition, and the same is true and accurate, save and except for changes and/or
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2 3 4 5 6 7 8 9 10 11 12	CERTIFICATE STATE OF WASHINGTON)	2 3 4 5 6 7 8 9 10 11 12	I declare under penalty of perjury that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the correction sheet hereof.
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Page 38

THE SATANIC TEMPLE vs NEWSWEEK DIGITAL

PLEASE MAKE ALL CHANGES OR CORRECTIONS ON THIS SHEET,

CORRECTION AND REASON

6 SHOWING PAGE, LINE, AND REASON, IF ANY. SIGN THIS

RETURN AS PER INSTRUCTIONS IN COVER LETTER.

SHEET, SIGN THE ACCOMPANYING SIGNATURE SHEET AND

MOBURG REPORTING

33400 9th Avenue South

Federal Way, WA 98003

3 Suite 207

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2 COURT REPORTERS & LEGAL VIDEO

Page 40 1 Certification of Court Rule and WAC Compliance 2 The Satanic Temple v. Newsweek 3 I, VALERIE SEATON, am an authorized representative of MOBURG REPORTING and do hereby, under penalty of perjury, certify that Moburg Reporting and all court reporters 4 providing services in the above-captioned case on MOBURG REPORTING'S behalf will fully comply with all applicable 5 rules and regulations governing the provision of court reporting services, including, where applicable, Washington Superior Court Rule 28(c)-(e) and WAC 308-14-130(1).* 8 11/30/23 9 Valerie L. Seaton Date 10 President Moburg Reporting 12 *28(c) Disqualification for Interest. *28(c) Disqualification for Interest. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

28(d) Equal Terms Required. Any arrangement concerning court reporting services or fees in a case shall be offered to all parties on equal terms. This rule applies No deposition 13 14 15 to any arrangement or agreement between the person before whom a deposition is taken or a court reporting firm, 16 consortium, or other organization providing a court reporter, and any party or any person arranging or paying 17 for court reporting services in the case, including any attorney, law firm, person or entity with a financial interest in the outcome of the litigation, or person or entity paying for court reporting services in the case. 28(e) Final Certification of the Transcript. The court reporter reporting a deposition shall not certify the

deposition transcript until after he or she has reviewed the final version of the formatted transcript. A court

concerning court reporting services or fees to all parties

Offer arrangements on a case

reporting firm, consortium, or other organization transmitting a court reporter's certified transcript shall not alter the format, layout, or content of the transcript after it has been certified.

*308-14-130(1)

on equal terms.

David Johnson

12 13 14 15 16 17 18 19 20 21 22 23 (SIGNATURE) 24 25 REPORTER: CHERYL MACDONALD Page 39 1

MOBURG REPORTING 2 Court Reporters & Legal Video 33400 9th Avenue South, Suite 207 3 Federal Way, WA 98003 (206) 622-3110 FAX (206) 343-2272 E-mail: info@moburgreporting.com November 30, 2023 6 TO: Jeremy E. Roller Arete Law Group 7 1218 3rd Avenue Suite 2100 8 Seattle, WA 98101 IN RE: The Satanic Temple v. Newsweek 10 DEPOSITION(S) OF: David Alan Johnson 11 DATE OF DEPOSITION: November 17, 2023 12 A copy of the deposition transcript of the above-named 13 is provided via E-transcript. Please have the deponent read the deposition, sign the correction 14 sheet and declaration. The signed correction sheet 15 and declaration should then, within 30 (thirty) days, be forwarded to: 16 CHERYL MACDONALD 17 33400 9th Ave. So. #207 18 Federal Way, Washington 98003 19 who will then enclose them in the original transcript, seal it, and forward it to Mr. Kezhaya for retention 20 until the time of trial. 21 If you have any questions, feel free to contact me at the number listed above. 23 Sincerely, 2.4 CHERYL MACDONALD, CCR

> m MOBURG REPORTING

CC: S. Tesoriero M. Kezhaya

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